

MONTANA'S SCHOOL TRANSPORTATION POLICIES AND FUNDING

**PREPARED FOR THE JOINT INTERIM SUBCOMMITTEE
ON SCHOOL FUNDING***

By Andrea Merrill, Staff Researcher
Montana Legislative Council
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SCHOOL TRANSPORTATION POLICY PRIOR TO 1980

The first modes of school transportation in Montana may have been yellow, but more than likely, they were brown and responded to names like "Scout" or "Daisy". Horse stables and hitching posts were common on school sites well into the 20th century and were maintained at some Montana rural schools into the 1960s. The first "buses" provided by school districts were horse-driven and required maintenance of a horse barn on school property.¹ Until the 1971 recodification of school law, the definition of "nearest practical route" to school, used to determine individual reimbursement, included horse and buggy tracks.

Since territorial days, school boards of trustees have had the discretionary power to provide transportation to pupils. The 1903 Legislature passed what was probably the first law encouraging school consolidation in that trustees could close schools but were required to provide transportation expenses or room and board payments to the families involved, in addition to paying tuition to the receiving district.² In 1929, legislation forbade districts to use public funds to provide transportation within 3 miles of a school or within 2½ miles of an incorporated town. Existing transportation reimbursements limited the amount that could be spent on routes with five children or less.³ For the first time, a parent who was dissatisfied with reimbursement or with bus routing could appeal to the state Superintendent of Public Instruction.

The 1935 Legislature created what appears to be Montana's first comprehensive "school equalization" legislation.⁴ The act restated the Montana constitutional law of the time that required establishment of "a uniform system of free, public schools". The system was to be "a minimum, foundational, educational program", with support from state revenue equally distributed to "classroom units". In addition to this basic equalization structure, the state pledged revenue from the state public school general fund for one-half of the transportation costs, according to schedules to be devised by the State Board of Education. Another revolutionary proviso of the 1935 revisions declared that no state funding for school district general operations

or transportation would be distributed to a school with less than 10 children enrolled the previous year.*

On the heels of enactment, the transportation provisions of this act came under Montana Supreme Court scrutiny. The court was asked to interpret whether the state was to supply half of a district's actual costs of transportation or half of the State Board of Education's guaranteed schedule amount used to reimburse either the district or a parent who supplied transportation.⁵ The court agreed with the latter contention because legislative intent had been to provide uniform transportation funding for all students who lived 3 or more miles from town. The record also indicated that the Legislature had hoped that larger districts would use the commitment to purchase buses that could collect students from what some considered to be an excessive number of suburban districts.

Comprehensive legislation in 1941 concentrated on creation of a statutory schedule for transportation costs;** bus standards; insurance and contract requirements; the provision of correspondence or home study in lieu of transportation; and creation of a separate district transportation budget, complete with the ability to receive funds from existing countywide levies and a local levy.⁶ Under these new policies, the state commitment was still one-half of scheduled costs. However, the following Legislature diluted the state obligation to one-third, an amount not altered until changes enacted in 1991.*** The 1943 legislation also included the current policy of one-third

* According to the 1946 Report of the Montana Committee on Public Elementary and Secondary School Organization and Finance, the state commitment to classroom unit funding for the districts comprised only 20% of district general fund spending in the mid-1940s. The report criticized the fact that virtually all schools of fewer than 10 students shared in the meager funding pot because they had been classified as isolated in order to receive classroom unit funding, contrary to original intentions.

** This new policy was later criticized because transportation payments for pupils carried by bus were to be made under schedules that were related to the costs of transporting pupils individually.

*** See pages 12 and 21 of this report.

countywide-levy support for elementary districts and two-thirds countywide-levy support for high school transportation.⁷

Part of the sweeping changes of the Foundation Program Act of 1949 included creation of separate schedules for bus and for individual transportation reimbursement.⁸ The 1946 Report of the Montana Committee on Public Elementary and Secondary School Organization and Finance had criticized Montana's transportation policies as hampering consolidation of the 1,710 school districts of the day. Parents were sometimes reluctant to support abandonment of their one-room school house because trustees could substitute room and board payments in lieu of transportation when closing a school.* The report also promoted extension of reimbursable services to students who lived at least 2½ miles from school.

A 1950 Attorney General's opinion clarified that under the 1949 laws, transportation remained a voluntary activity for districts, with the caveat that if one student was transported at school expense, all other eligible students must be afforded the same opportunity.⁹ The 1951 Legislature modified this discretion when it created county transportation committees that could direct a district to provide transportation with the approval of the Superintendent of Public Instruction.¹⁰ The new county transportation committees had powers to approve all district bus routes and to hear controversies resulting from transportation disputes.

Few major school transportation funding modifications have occurred since the early 1950s, except for the following changes and technical amendments made in the school law recodification of 1971:

- Chapter 249, Laws of 1965, allowed trustees to provide transportation within 3 miles of a school at district expense and to permit noneligible transportees to ride a bus if space allowed.
- Chapter 243, Laws of 1976, permitted creation of a district transportation reserve fund equal to 20 percent of the transportation budget.

* In 1945, 57% of the 1,534 elementary school districts had fewer than 10 students, according to the 1946 Report, page 6.

- Chapter 470, Laws of 1975, modernized the reimbursement schedule for individual transportation.
- Chapter 590, Laws of 1979, repealed the requirement that in order to receive maximum reimbursement, a bus must carry eligible transportees equal to 75 percent of the rated capacity of the bus. Under the new provision, a bus qualified for full reimbursement as long as one eligible transportee was listed on the bus passenger roster.

SCHOOL TRANSPORTATION POLICY PRIOR TO 1989

The 1981 Legislature passed resolutions to study both school finance equity in general (House Joint Resolution No. 34) and public school transportation needs (Senate Joint Resolution No. 13). The transportation study was prompted by two failed attempts at lowering the 3-mile limit for funding of eligible transportees, especially in hazardous traffic areas.¹¹ Only House Joint Resolution No. 34 was selected for funding as an interim study. However, during the 1981-82 interim, the Legislative Finance Committee examined the funding of public school transportation and made a number of legislative recommendations.¹²

The Committee's study focused on the following:

- the escalating impact of school transportation costs on the state general fund (the state contribution was increasing by at least 25 percent each biennium);
- the fact that the reimbursement schedules covered only 65 percent of the actual costs, such as driver salaries and bus insurance, incurred by a district;
- the evidence that the reimbursement for larger buses was out of proportion to actual costs and acted as an incentive to operate inefficiently in order to minimize total district expenses; and
- the absence of a load requirement since enactment of the 1979 legislation noted above (districts were receiving maximum reimbursement per bus mile even though only 58 percent of the available capacity was used by eligible transportees).

The study suggested that this latter provision was costing the state, counties, and school districts a hefty amount for empty seats or seats occupied by

ineligible transportees. Although time did not permit an indepth examination of reduction of the 3-mile limit, study of one large district suggested that lowering the limit would increase the state's share by 15 percent, the county's share by 12.6 percent, and the district's share by 11.5 percent.

The 1983 Legislature compromised on a number of these issues and enacted the following changes:

- provided maximum reimbursement for buses with more than 50 percent eligible transportees;¹³
- created a formula for "adjusted rated capacity" for buses with less than 50 percent eligible transportees;¹⁴
- divided rated capacity categories at 45 children, not 50;¹⁵
- increased reimbursement per mile from 65 cents in fiscal year 1983 to 72 cents in fiscal year 1984 and 80 cents in fiscal year 1985;¹⁶ and
- reduced rates for larger capacity buses to more closely match cost experiences and to encourage efficiency.

Legislation enacted during the June 1986 Special Session required the Board of Public Education and the Superintendent of Public Instruction to study administrative and structural reorganization of the public schools that would result in cost savings at local and state levels.¹⁷ The Board's report to the 1987 Legislature included a proposal, submitted by the Montana Association of School Administrators, that suggested that the Board of Public Education should develop rules, as allowed by section 20-10-111, MCA, that would require county transportation committees to approve only the most economical routing for provision of bus services, without regard to the district boundary within the county. The proposal also suggested that because the county would control all transportation services more strictly, funding should be on a countywide basis.¹⁸ As part of this effort, the Board organized a transportation task force to delve into the issues and problems of school transportation as they related to the efficient operation of the schools.

LEGAL ASPECTS OF SCHOOL TRANSPORTATION

The legal foundation for school transportation rests on the understanding that the duty to provide such a service is discretionary on the part of the districts, but if service and funding are granted to one student, both must be made available in a fair and equitable manner for all students in similar

circumstances. Legal precedence thus allows states to limit provision of transportation to those residing a certain distance from school and permits districts to charge user fees that are fairly applied. These long-standing concepts weathered the scrutiny of the U.S. Supreme Court in a 1988 decision arising from the challenge by a North Dakota parent that the bus user fees charged in "nonreorganized" districts in that state defied the U.S. Constitution's Equal Protection Clause and placed a greater obstacle to education in the path of poor students than in the path of wealthier students.¹⁹ The court did not apply the strict scrutiny test because the challenged classification was rationally related to the legitimate governmental purpose of encouraging efficiency in the operation of schools.* The U.S. Supreme Court's strongest statement reads:

The Constitution does not require that such a service be provided at all, and choosing to offer the service does not entail a constitutional obligation to offer it for free. Encouraging local school districts to provide bus service is a legitimate state purpose, and it is rational for the State to refrain from undermining its objective with a rule requiring that general revenues be used to subsidize an optional service that will benefit a minority of the district's families.²⁰

Most transportation controversies in Montana are settled by the county transportation committee, the designated "court of record". This committee's membership includes: the County Superintendent of Schools as chairperson; the chairperson or a designee from the Board of County Commissioners; a trustee or district employee from each high school district in the county; a representative from each high school district who is also a trustee of an elementary district encompassed within the high school district and who is elected by those elementary trustees; and if the transportation services of a district in another county are affected by the actions of the transportation committee, a representative of the affected county. The county transportation committee must conduct factfinding hearings on transportation controversies appealed from decisions of boards of trustees.²¹ The Uniform Rules of School Controversy adopted by the Superintendent of Public Instruction require the committee to make proper findings of fact and conclusions of law

* Since 1947, North Dakota school districts have been encouraged to "reorganize", and as part of any plan, transportation must be provided at state and local expense. Districts that choose not to reorganize are allowed to charge a user fee to cover costs not supplied through state aid.

and to issue an order.²² For this purpose, the committee may retain legal counsel.

The following decisions and opinions present the range of transportation controversies that come before district trustees, county transportation committees, the Superintendent of Public Instruction, the Attorney General, and certain courts:

- School district trustees must conform their budget to the accounting procedure prescribed by the Superintendent. This requires itemizing the expenses of activity buses under the general fund rather than the transportation fund. 38 A.G. Op. 86 (July 1980).
- The penalty for operating school buses in violation of or without approval of routes established by a county transportation committee is both the suspension of all reimbursements until the violation is corrected and the forfeiture of funds for the miles traveled in violation of the committee's decisions. 39 A.G. Op. 57 (April 1982).
- The Superintendent upheld a school district's denial of busing to students who claimed their circumstances fell within the district's policy of providing transportation if safety hazards existed. A district safety committee had judged that any safety hazard present was insufficient to justify bus transportation. The Superintendent stressed that, as in many cases, long-term safety considerations were the responsibility of other transportation policymakers, such as the county. Edward E. Ahlquist, et al. v. School District No. 2, Yellowstone County, OSPI No. 12-81, decided April 1982.
- The Superintendent decided that it was an error for the Beaverhead Transportation Committee to deny isolation rate reimbursement because clear evidence was presented to show that the roads traveled for which the appellant was seeking transportation reimbursement were subject to severe weather conditions. Kim Bacon v. Beaverhead County Transportation Committee, OSPI No. 56-83, decided April 1983.

- The Superintendent ordered a rehearing, asking that more information about actual costs of extending the bus route be presented at the hearing. Mr. and Mrs. Gilger, Boyes, Montana v. School District 79J, Powder River County, OSPI No. 49-83, decided October 1983.
- A school district was denied recovery of money paid under an individual transportation contract. The Montana Supreme Court upheld a District Court finding that defendants were residents of the county for purposes of transportation reimbursement, even though the family lived elsewhere during the school year because of extreme isolation. The court awarded compensation for emotional damages. Lima School District No. 12 and Elementary School District of Beaverhead County v. Simonsen, 210 M 100 (1984).
- The Superintendent overturned a transportation committee's denial of a bus route application that allows children in Cascade County to attend Teton County schools and children in Teton County to attend Cascade County schools in the pattern their families, who live near the county border, have historically followed. School District No. 21, Teton County, and Proposed Bus Route Proponents v. Cascade County Transportation Committee, OSPI No. 83-85, decided November 1985.
- The long-standing operation of a Harrison School District bus within the territorial boundaries of Cardwell School District was unauthorized and illegal insofar as the bus was used to transport elementary students out of the Cardwell School District to attend school in Harrison. Cardwell Joint School District No. 16 and 31 v. Harrison School District 23, Fifth Judicial District, No. 7531, decided February 1987.

RECENT TRANSPORTATION POLICY AND ISSUES

Equalization of school district transportation costs was not discussed in any detail within the "underfunded schools" lawsuit that was heard in District Court in May 1987 and decided by District Court Judge Heny Loble in January 1988.²³ When that decision and the subsequent affirmation by the Montana Supreme Court in February 1989 stressed that the school funding "system" was unconstitutional, the plaintiff parties reminded policymakers that

transportation was clearly part of the constitutionally required system of free public education and should be determined to be equitably financed. Yet, as the 1989 Legislature and the education community journeyed toward equalization of school district general fund budgets, transportation issues were stepped around as being too unmapped a territory to trek through during the regular and special sessions of that year. A number of funding reform proposals did promote either full state funding of established reimbursement schedules or payment based on a district population density factor.²⁴ When House Bill No. 28 emerged from the June 1989 Special Session as the funding reform package, the bill directed a study committee to use the remainder of the interim to examine transportation and school capital outlay equalization and to make recommendations to the 52nd Legislature.

The Legislative Oversight Committee on School Funding Implementation (Oversight Committee) studied the funding mechanisms and the costs of school transportation*, how other states fund transportation, and the problems encountered by the Office of Public Instruction (OPI) in compiling consistant, meaningful data on school district transportation budgets at that time.²⁵

As a first step, OPI suggested standardizing the revenue sources and funding mechanism for elementary districts and high school districts. As an ancillary step, the newly instituted use of generally accepted accounting principles should provide more dependable transportation budget and expenditure reporting. At the Oversight Committee's final meeting, these recommendations were folded into a plan to share on-schedule costs between the state and each county, with guaranteed tax base aid to be made available to eligible counties.

When Senate Bill No. 82 came before the 1991 Legislature, the Senate Education and Cultural Resources Committee deleted the guaranteed tax

* In both FY 1988 and FY 1989, the statutory transportation schedules required about \$17.7 million in funding to be shared among the state, counties, and districts. The districts spent another \$10.8 million each year to fund over-schedule transportation needs. Over-schedule transportation costs may cover expenditures for sports and other extracurricular activities that do not meet the definition of transportation to and from school in 20-10-101, MCA, and must be funded through the district general fund budget.

base aid component from that bill but made the remaining provisions effective for school fiscal year 1991-92 in order for OPI to begin collecting standardized data from the districts. The Committee added a preamble that acknowledged the legislation as "a first step toward providing a long-term solution to school transportation equalization problems in Montana". Another amendment increased the mileage reimbursement by 6.25 percent, from 80 cents to 85 cents per mile.* A new section of the bill also directed OPI to collect data and study methods for equalizing school transportation funding and to make a report to the 53rd Legislature.²⁶

In separate action, the 1991 Legislature supported the recommendation by the Oversight Committee to limit transportation funding to 180 days to match the similar 180 pupil-instruction-day limitation on state equalization aid contained in the 1989 reform package.²⁷

In the final hours of the 1991 Regular Session, \$7,822,623 was appropriated for the biennium from the state equalization aid (SEA) account for the state on-schedule school transportation costs under Senate Bill No. 82 (Chapter 711, Laws of 1991). The remainder was allocated from the traditional and statutorily implied state general fund. According to the following section, the money available for SEA is for specific purposes and the state transportation obligation is specifically excluded as a funding area, as are other school district programs with separate budget funds.

20-9-344. Purpose of state equalization aid and duties of board of public education for distribution -- conditions of first payment. (1) The money available for state equalization aid must be distributed and apportioned to provide:

- (a) an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

* Under the changes in SB 82, on-schedule school transportation costs were predicted to be \$18 million for each year of the 1991-92 biennium, with another \$1.3 million each year for 100% assumption of special education transportation costs. The shift of elementary district costs to the county level would result in an overall increase in county transportation levies of \$3.7 million per year. See page 21 for illustration of the current plan.

(b) the Montana educational telecommunications network as provided in 20-32-101. . . .

If this practice is to be repeated, both section 20-9-343 and section 20-9-344, MCA, should be amended to clearly authorize appropriation from the SEA account for the purposes of transportation reimbursement and to avoid the possibility of any challenge on "valid" uses of that account.

In the July 1992 Special Session, House Bill No. 22 reduced the state's FY 1992-93 obligation for full reimbursement of the transportation costs of special education students to a 50 percent reimbursement rate. With this action, the Legislature decreased anticipated state special education transportation costs to \$800,000 but increased county transportation support by a like amount.*

HOW SCHOOL TRANSPORTATION IS FUNDED

Types of Public School Transportation

Montana law provides for two types of public school transportation--the school bus and individual transportation. School bus transportation includes a district's conveyance between a pupil's legal residence and the school designated by the trustees for the pupil's attendance. School bus transportation may be provided directly by the district, or the trustees of the district may contract with a private party to provide transportation to eligible transportees.

Individual transportation reimbursement is made to a parent or guardian for conveyance from the pupil's residence to a bus stop or to the school designated for attendance. The policy on individual transportation also requires compensation to the parent or guardian for the pupil's room and board when it is necessary for a pupil who is an eligible transportee to live away from his or her legal residence in order to attend regular classes. Supervised correspondence study or supervised home study, through the

* In FY 1991-92, Yellowstone and Cascade Counties received 51 percent of the appropriation for full reimbursement of special education transportation.

County Superintendent of Schools, is also authorized under certain conditions.

Eligibility Requirements

In order for a district to be eligible for state and county transportation reimbursement, section 20-10-101(2), MCA, requires that a child who is transported must:

- be a resident of the State of Montana;
- be between the ages of 5 and 21 or be a preschool child with disabilities and be between the ages of 3 and 6;*
- reside at least 3 miles from the nearest operating public elementary school or public high school; and
- be considered to reside with his or her parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

The trustees of a district are not required by law to furnish pupil transportation unless directed to do so by the county transportation committee. However, if the trustees decide to furnish transportation for any eligible transportee, they must then ensure transportation for all eligible transportees in the district.

The trustees of a district also may provide school bus transportation to a pupil of a public school who is not an eligible transportee of the district. When school bus transportation is provided to an "ineligible transportee", the district may charge a fee based on a proportionate share of the costs of operating the school bus. For example, the Helena School District allows approximately 500 pupils living within 3 miles of their assigned school to ride buses when seating is available. The district charges these pupils at a rate of \$105 per year for the first transportee and \$89.25 per year for each additional child in the family.

* District transportation and reimbursement for preschool handicapped children was amended in Senate Bill No. 17 (Chapter 767, Laws of 1991) to coordinate with the mandate in section 20-7-411, MCA, that each district was to provide a preschool special education program for the 1990-91 school year.

An ineligible transportee may be transported on a bus providing transportation solely to ineligible transportees or, if the ineligible pupil will not displace an eligible pupil, on a bus conveying eligible transportees. School districts sometimes choose to provide free transportation to otherwise ineligible transportees based on safety considerations or when doing so poses no extra cost to the district. A child who attends a nonpublic school may ride a district school bus when the child's parent or guardian secures a permit from the operating district and when there is seating capacity available on the bus.

Budgeting for Transportation

By law, the trustees of a district must provide a transportation fund budget that is adequate to finance the district's transportation contracts and any other transportation expenditures necessary to conduct its transportation program. Transportation costs that cover expenditures for sports and other extracurricular activities and that do not meet the definition of pupil transportation to and from school contained in section 20-10-101, MCA, must be funded through the district general fund budget.

The transportation fund budget includes:

- maintenance and operation of district-owned and -operated buses;
- the contracted amount for maintenance and operation of school buses by a private party;
- the annual contracted amount for individual transportation, including any increased amount due to isolation;
- any amount necessary for the purchase, rental, or insurance of school buses;
- any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district;
- a contingency amount not to exceed 10 percent of the transportation schedule amount of the district; and
- a special itemization for expenditures financed by pupil payments.

The transportation budget may include a reserve for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget. The transportation reserve for operating districts may not exceed 20 percent of the district's final transportation fund budget for

the ensuing school fiscal year. The reserve may not be used to increase expenditures made from the transportation budget.

A school district may also establish a bus depreciation reserve fund as authorized by section 20-10-147, MCA. Until amended by the 1991 Legislature, the purpose of this fund was limited to the financing of the purchase of replacement buses and two-way radio equipment owned by the district. House Bill No. 154 (Chapter 69, Laws of 1991) allowed appropriation for the "conversion, remodeling, or rebuilding" of a bus or radio. A district may levy annually to acquire an amount of up to 20 percent per year of the original cost of the buses, but may not collect more than 150 percent of the original cost.²⁸ If the trustees consider it in the best interest of the district to transfer the bus depreciation reserve fund balance to another district fund, they must obtain authorization through a vote of the people.

Public School Transportation Reimbursement Rates

The existing mechanism for equalization of school district transportation costs is based on the reimbursement schedules established by the Legislature. The schedules define which transportation expenditures, or "on-schedule" costs, are reimbursable by the state and county. Expenditures beyond those permitted by the schedules are referred to as "over-schedule" and are solely the obligation of the local school district.

The reimbursement schedules, as increased during the 1991 legislative session, provide for a flat rate of 85 cents per mile for school buses with a rated capacity of at least 12 but not more than 45 pupils.²⁹ Districts with buses with a rated capacity exceeding 45 pupils are reimbursed at the flat rate plus an additional 2.13 cents per mile for each additional pupil in the rated capacity in excess of 45.

Figure 1

65-Passenger Bus Reimbursement Fiscal Year 1991-92 At least 50% eligible transportees	
Basic reimbursement rate per mile	\$.85
Additional reimbursement for rated capacity exceeding 45 (65-45) x .0213	.43 -----
Total reimbursement per mile	\$1.28

If the number of eligible transportees boarding the bus is less than one-half of its rated capacity, the reimbursement is calculated as illustrated in Figure 2. The number of eligible transportees riding the bus is multiplied by two to determine the adjusted rated capacity of the bus.

Figure 2

65-Passenger Bus Reimbursement Fiscal Year 1991-92 25 eligible transportees (38%)	
Adjusted rated capacity (25 x 2)	50
Basic reimbursement rate per mile	\$.85
Additional reimbursement for rated capacity exceeding 45 (50-45) x .0213	.11 -----
Total reimbursement per mile	\$.96

Figure 3 shows the on-schedule reimbursement amount as the product of the schedule rate per mile times the bus miles per day on an approved route, times the number of days operated up to the 180 pupil-instruction- days allowed for funding. Transportation funding is limited to 180 pupil-instruction days to match the similar 180-day limitation for state equalization aid enacted in the 1989 funding reforms.³⁰

Figure 3

Calculation of Bus Reimbursement

Rate per mile (see Figure 1)	\$1.28
Times miles per day	93
Times number of days	180

	\$21,427

Under section 20-10-142, MCA, a parent or guardian contracting with the trustees of the district for transporting an eligible transportee to school is reimbursed at a rate of 21.25 cents per mile. Allowable miles are determined by multiplying the distance between the eligible transportee's residence and the school, minus 6 miles. See Figure 4. The total reimbursement allowed is limited to one round trip per day. Parents who transport their children to the nearest bus stop on an approved route are reimbursed 22.5 cents per mile. When excessive distance, impassable roads, or other special circumstances of isolation are a factor, the parent or guardian may request from the trustees a 50 percent increase in the reimbursement rate.

Figure 4

Calculation of Individual Reimbursement
Fiscal Year 1991-92

Miles from home to school	20
Allowable miles (20×2) - 6	34
Rate per mile	.2125
Reimbursement per day	\$7.23
Days transported up to 180	176

	\$1,271.60

Isolation of some households requires a student to live away from home in order to attend school. When that happens, the student is eligible for room and board reimbursement. The statutory rate for room and board reimbursement is \$5.31 per day for one eligible transportee and \$3.19 per day for each additional eligible transportee of the same household. If a pupil is unable to attend regular classes, payment is provided for correspondence materials purchased through a company offering a correspondence program. The program is supervised by the County Superintendent. Two pupils

participated in the correspondence program in fiscal year 1989. There were no students receiving supervised home study.

Montana law provides for additional state financial assistance to school districts that consolidate under the voluntary consolidation and annexation incentive plan.³¹ In addition to the general bonus payments received by the combined district, the new enlarged district is also eligible for a transportation bonus payment from the state equal to 66 2/3 percent of the on-schedule amount for each eligible transportee of the component district having the fewest number of pupils. Pupils residing in the component district having the largest total number of pupils are ineligible for bonus payment consideration. The enlarged district is entitled to the bonus payment for a period of 3 years.

Cost Allocation

Prior to changes made by the 1991 Legislature in Senate Bill No. 82, the financial obligations of the state, county, and district for the transportation on-schedule amount for each elementary and high school district were divided as follows.

Figure 5			
Public School Transportation - Cost Allocation			
Fiscal Year 1988-89			
Total Transportation Budget	Elementary District	High School District	
Over-Schedule	District	District	\$10.8 million
On-Schedule	District County State	County State	\$17.7 million
State paid 2/3 of on-schedule special education costs.			

Under the current distribution shown in Figure 6, both elementary and high school districts receive transportation reimbursement from the state for one-half of the district's total on-schedule amount. Beginning with the FY 1992-93 school year, the state reimbursement for the transportation of special education pupils is also 50 percent of the schedules established for that purpose by the Superintendent of Public Instruction pursuant to section 20-7-442, MCA. An appropriation from the state general fund is the traditional source for the state's obligation.

Transportation reimbursement from the county is designated to provide the remaining one-half of the funds for elementary districts, high school districts, and special education cooperatives in the county. The county transportation

reimbursement is funded by a nonvoted county transportation fund levy (see section 20-10-146(2), MCA). The over-schedule amount that each district or cooperative is responsible for is funded through a nonvoted levy on the taxable property of that school district.

Figure 6			
Public School Transportation - Cost Allocation Fiscal Year 1991-92			
	Elementary District	High School District	
Total Transportation Budget			
Over-Schedule	District District	District District	\$10.8 million
On-Schedule	County	County	\$18 million
	State	State	

WHO CONTROLS WHAT IN SCHOOL TRANSPORTATION

AGENCY	AUTHORITY	POWERS AND DUTIES
ARM = Administrative Rules of Montana		
Board of Public Education (BPE)	20-2-121(4), 20-10-111, ARM 10.64.301 to 10.64.516	Adopt and enforce minimum standards for design, construction, and operation of school buses, within national standards and state law; prescribe additional residency criteria
	20-10-111(1)(d) ARM 10.64.701	Rules for CTC transportation areas
	ARM 10.64.604	Montana Highway Patrol semiannual inspections
State Superintendent (OPI)	20-3-106(16), 20-10-112, ARM 10.7.101 to 10.7.118	Provide uniform and equal provision of transportation by: * Rules and forms for implementation of BPE policies * Rules for approval of bus routing by CTC * Rules for individual and private contracts * Rules for CTC approval of increases due to isolation (degree-of-isolation chart) Final approval or adjustment of all bus routing Final approval or adjustment of all individual contracts

	20-3-107, 20-10-132(2)	Rules for consideration of CTC controversies; hear appeals from CTC decisions
	20-10-145	Disburse state reimbursement claims submitted through CS
	20-7-442, ARM 10.16.2107	Approve reimbursement for special education pupils
County Transportation Committee (CTC)	20-10-132	Establish transportation service areas per BPE rules Approve or adjust bus routing of each district Approve or adjust rate increases due to isolation Conduct hearings to establish facts in transportation controversies appealed from trustees' decisions
	20-10-121	Direct trustees to furnish transportation
School Trustees	20-3-324, 20-10-121	May establish, maintain, budget, and finance transportation program; must establish if directed by CTC
	20-10-122	May provide bus transportation to ineligible pupils and may charge proportionate share
	20-10-123	May permit and charge nonpublic school children proportionate share to ride district buses
	20-3-509	Must provide transportation and tuition through nonoperating fund if school closed
	20-10-101	By definition of transportation, may not budget activity buses in transportation fund, but may budget in district general fund
	20-10-107	May purchase, rent, or contract for buses or two-way radios
	20-10-109	Must carry liability insurance for school buses
	20-10-110	May purchase bus without advertising for bid; installment contracts must be executed in 3 years
	20-10-125	Contracts for transportation must go to lowest bidder Contract may not exceed 12% of previous year
	20-10-142(5)	Must approve and pay for home or correspondence study if warranted by isolated conditions

	20-10-143	May budget 10% contingency amount May adopt budget amendment as provided by 20-9-161 to 20-9-166 Send budgets and contracts to CS
	20-10-147	May establish bus depreciation reserve not to exceed 20% of original costs of buses or radios covered; may include activity buses
	20-10-132	May request from CTC transfer to other route or service area
County Superintendent (CS)	20-3-205(18), 20-10-103, 20-10-143, 20-10-145	File and forward to OPI: bus driver certifications, district transportation contracts, and state aid claims
	20-10-104	Suspend state and county reimbursements if district violates transportation law
	20-10-131	Chairperson of CTC
	20-10-144	By 4th Monday in July, compute available revenue and net tax levies for all districts
	20-10-146	Apportion county transportation reimbursement from proceeds of countywide levies
Parents	20-10-132	May appeal trustees' decision to CTC; may appeal CTC decision to OPI
	20-10-142(3)	May request increased rate due to isolation
	20-10-121(4)	Must give consent for child to ride more than 1 hour per trip
Electors	20-10-132	May object to CTC decision and petition trustees to conduct election to transfer bus service to willing adjacent district

ENDNOTES

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1. C.R. Anderson, Know Your Schools, Public Education in Montana, State Publishing Company, Helena, Montana, 1972.
2. Chapter 68, Laws of 1903.
3. Chapter 102, Laws of 1929.
4. Chapter 175, Laws of 1935.
5. McBride v. Reardon, 105 Mont. 96, 69 P.2d 975 (1937).
6. Chapter 152, Laws of 1941.
7. Chapter 189, Laws of 1943.
8. Chapter 200, Laws of 1949.
9. 23 A.G. Opinion 57 (1949).
10. Chapter 189, Laws of 1951.
11. House Bill No. 660, introduced by Anderson and Senate Bill No. 469, introduced by S. Brown.
12. Office of the Legislative Fiscal Analyst, Public School Transportation, report to the Legislative Finance Committee, March 1982.
13. Chapter 515, Laws of 1983.
14. Ibid.
15. Chapter 559, Laws of 1983.
16. Ibid.
17. Chapter 21, Special Laws of June 1986.
18. Montana Board of Public Education, A Report to the Fiftieth Legislature: A Response to Senate Bill 15, January 15, 1987.
19. Kadrimas v. Dickinson Public Schools, 108 S. Ct. 2481 (1988).

20. *Ibid.*, at 2484.
21. McCuin v. Valier School District No. 18, OSPI No. 91-85, 5 Ed. Law 1, February 1986.
22. ARM 10.6.101, et seq.
23. Helena Elementary School District No. 1 v. State, 236 Mont. 44, 769 P.2d 684 (1989).
24. "Public School Funding Recommendations," a report to Montanans by the Governor's Public School Finance Advisory Council, Helena, Montana, November 16, 1989. House Bill No. 575 of the Regular Session recommended that transportation be funded in the district general fund, with equalized state aid granted on a population density factor. House Bill No. 28, as introduced, would have provided for 100% state funding of the transportation schedules.
25. "How Other States Fund School Transportation," by Andrea Merrill, Montana Legislative Council, May 1990.
"Montana Public School Transportation Status Report for School Year 1988-89," by Jan Thompson, Montana Office of Public Instruction, May 1990.
- "Montana Public School Transportation Funding Proposals," by Jan Thompson, Montana Office of Public Instruction, November 1990.
26. Minutes of the Senate Education and Cultural Resources Committee, Montana Senate, January 18, 1991, and February 14, 1991; Senate Bill No. 82 enacted as Chapter 711, Laws of 1991.
27. Chapter 767, Laws of 1991.
28. House Bill No. 715 (Chapter 569, Laws of 1991) changed the bus depreciation allowance from 100% to 150% of the original cost of a bus.
29. Chapter 711, Laws of 1991.
30. See endnote 27.
31. Sections 20-6-401 through 20-6-408, MCA.